REMARKS

Claims 1 – 28 are pending. The claim language which recited erythropoietin has been cancelled without prejudice to this subject matter being pursued in a continuation application.

Claim 10 has been amended to recite that the kit optionally contains instructions for performing the method of claim 2. Support for this amendment is found on page 7, lines 10-14.

Claims 11-17 have been amended in order to correct their antecedent basis.

No new subject matter is added by this amendment.

Restriction Requirement

In response to the requirement under 35 USC 121 and 371, Applicants have provisionally elected the subject matter of Group III, to which the examiner has indicated claims 1-7, 10-17 and 19 correspond.

Applicants respectfully traverse the restriction requirement. Applicants believe that claim 1 should have been designated as a generic claim, and that any restriction requirement should have been a species restriction among the specified transgenes. If such a species restriction were to be made based on the recited transgenes, Applicants would elect Factor IX as the species.

Applicants note that the examiner comments that the restriction requirement between the inventions is subject to the non-allowance of the linking claim(s), claim 1. Applicants' appreciate the examiner's courtesy in attempting to prevent the issuance of a restriction requirement following issuance of a first Office Action. However, Applicants drawing the restriction in this manner appears to preclude Applicants' ability to obtain a generic claim as presented in original claim 1 prior to any examination of the application occurring.

Information Disclosure Statement

Applicants draw the examiner's attention to the fact that a first Information Disclosure Statement (IDS) was filed December 11, 2001 and a second IDS was filed June 18, 2002. In addition, Applicants are supplying herewith a further IDS which

contains a paper co-authored by the inventors and published after the filing date of this application, A. Auricchio et al, "*Noninvasive gene transfer to the lung for systemic delivery of therapeutic proteins*", J. CLIN. INVEST., **110**(4):499-504 (Aug 2002), which provides additional evidence supporting the claimed subject matter.

Applicants request favorable consideration of the pending claims.

The Director of the US Patent and Trademark Office is authorized to charge any deficiency in the fee associated with the filing of this paper to deposit account 08-3040.

Respectfully submitted,
HOWSON AND HOWSON
Attorneys for the Applicants

By _____
Cathy A. Rodroff
Registration No. 33,980
Spring House Corporate Center
Box 457
Spring House, PA 19477
Phone: (215) 540-9210
Fax: (215) 540-5818